

Supplemental Background on CEQA, MEPA and KC's SEPA and Climate Change Efforts

Massachusetts Environmental Policy Act (MEPA)

Beginning November 2007, the MEPA GHG Emissions Policy and Protocol went into effect¹. Any development in Massachusetts that had already had to submit an Environmental Impact Report (EIR)² as well as met other qualifications (state as a project proponent or funder, required an Air Quality Permit, or required a Vehicular Access Permit) must now quantify and mitigate their GHG emissions. This standard requires most large scale developments and “most, if not all, major commercial construction projects, including many new big-box retail stores and similar consumer-focused real estate ventures”³ to adhere to the new policy.

MEPA's GHG Policy and Protocol laid out the first specific “significance threshold” defining which projects must address climate change through a state little NEPA. This policy requires projects who fall under the above described categories to: 1) quantify a project's baseline emissions and 2) quantify GHG emissions reductions after mitigation. The policy does not define specific “compliance thresholds” (what level of emissions and/or mitigation is acceptable), but does state that projects must reduce their emissions to the maximum extent feasible; compliance will be determined on a case by case basis.

California Environmental Quality Act (CEQA)

In August 2007 California Senate Bill 97 was passed and requires the Governor's Office of Planning and Research to develop CEQA Guidelines “for the mitigation of GHG emissions or the effects of GHG emissions” by July 1, 2009 and requires that these guidelines be adopted by January 1, 2010⁴.

While these specific guidelines are being developed, California's Attorney General (AG) has been strongly encouraging project proponents to assess and mitigate their GHG emissions through CEQA. In addition to many comment letters⁵ he has issued on large projects and significant non-project actions, five settlements have resulted from the AG's action; these are summarized elsewhere by Hilary Franz.

¹ MEPA Greenhouse Gas Emissions Policy and Protocol. Executive Office of Environmental Affairs. Available: <http://www.mass.gov/envir/mepa/pdf/files/misc/GHG%20Policy%20FINAL.pdf>

² MEPA Review Thresholds. Massachusetts Environmental Policy Act Office. Available: <http://www.mass.gov/envir/mepa/thirdlevelpages/thresholds.htm>

³ New Massachusetts Proposals Aim To Spark A Green Energy Revolution. Lawrence, G.K. November 2007. Available: <http://www.mondaq.com/article.asp?articleid=54396>

⁴ CA Senate Bill No. 97. Available: http://www.leginfo.ca.gov/pub/07-08/bill/sen/sb_0051-0100/sb_97_bill_20070824_chaptered.pdf

⁵ California Attorney General and CEQA: Available: <http://ag.ca.gov/globalwarming/ceqa.php>

King County and the WA State Environmental Policy Act (SEPA)

King County was the first local government in the nation to officially add GHG emissions to the environmental review of development projects. King County's Executive Order on the Evaluation of Climate Change Impacts through the State Environmental Policy Act (PUT 7-10-1 (AEO)⁶) orders and directs "all King County departments, effective October 15, 2007, to require that climate impacts, including but not limited to those pertaining to greenhouse gasses, be appropriately identified and evaluated when such departments are acting as the lead agency in reviewing the environmental impacts of private or public proposals pursuant to the State Environmental Policy Act".

King County's policy covers projects undergoing environmental review mandated by the SEPA and applies to the County's own developments as well as private projects where the County is the lead permitting agency.

The 2008 Executive Recommended Comprehensive Plan Update includes policy that would authorize King County to exercise its substantive authority under SEPA to condition or deny development proposals in order to mitigate associated individual or cumulative impacts to global warming.

Over the last year King County staff have been working with the development and environmental communities as well as other regional agencies to develop significance and compliance thresholds and to identify and quantify appropriate mitigation strategies for project and non project actions. A draft ordinance was available for review through May 19th, 2008. An updated draft ordinance will be available for public review sometime during July 2008⁷.

⁶ Evaluation of Climate Change Impacts through the State Environmental Policy Act. King County Executive Order PUT 7-10-1 (AEO). 10/15/07. Available: <http://www.kingcounty.gov/operations/policies/executive/utilitiesaeo/put7101aeo.aspx>

⁷ King County Department of Development and Environmental Services. Climate Change and Development Regulations. Available: <http://www.metrokc.gov/permits/info/site/ClimateChange.aspx>